

# **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Daniel J. Stallone, Code Compliance Official: 797-1121

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** District 4

**TITLE OF AGENDA ITEM:** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF THE CODE COMPLIANCE LIEN, PAYMENT OF TOWN COSTS, ATTORNEY FEES AND COURT COSTS IN CASE NO. 96-181 FROM \$100,127.35 IN AMOUNT TO \$47,286.54; AND PROVIDING AN EFFECTIVE DATE.

**REPORT IN BRIEF:** The property owner was cited for violations of residential zoning (i.e. vehicle storage, commercial vehicle parking) and conducting a business without a Town of Davie license.

**PREVIOUS ACTIONS:** Not applicable.

**CONCURRENCES:** The respondent does not agree with the recommendation of the Code Compliance Division.

**FISCAL IMPACT:** Not applicable.

**RECOMMENDATION(S):**

Code Compliance mitigation guidelines equal the amount of \$17,159.19, plus additional costs incurred in this case, including Town Attorney fees and court costs equals \$30,127.35, providing for a total mitigation amount equal to \$47,286.54. This amount may be considered by the Town Council, and, if approved, the Respondent given 45 days to pay the mitigated amount.

**Attachment(s):** Resolution, Mitigation Request Summary.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF THE CODE COMPLIANCE LIEN IN CASE NO. 96-181 FROM \$100,127.35 IN AMOUNT TO \$47,286.54; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Joseph Orandello d/b/a Broadway Joe Ice Cream, requested a mitigation of a Code Compliance lien, Town Attorney fees and court costs equal to \$100,127.35 to \$31,000.00; and

WHEREAS, the Town of Davie Code Compliance Division has determined that the violation of Code Sections 12-32 and 13-17 were corrected; and

WHEREAS, the Town of Davie Code Compliance Division mitigation guidelines proscribed a mitigation amount equal to \$17,159.19, and Town Attorney fees and court costs equal to \$30,127.35 thereby providing for a sum total equal to \$47,286.54; and

WHEREAS, the Town Council at its November 6, 2002, meeting voted to amend the mitigation to an amount equal to the amount proscribed under the Town of Davie mitigation guidelines, and the accompanying Town attorney fees, and court costs incurred by the Town of Davie in this case; and

WHEREAS, the Town Council is agreeable to such mitigation.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That the certain Code Compliance lien, Town Attorney fees and court costs arising out of Case 96-181 in the amount of \$100,127.35, against Joseph Orandello, is hereby mitigated in amount to \$47,286.54.

SECTION 2. That this mitigated amount of \$47,286.54 be paid to the Town within 45 days of the enactment of this Resolution. Should this amount of \$47,286.54 not be paid within the specified time the lien shall revert to the original amount of \$100,127.35.

SECTION 3. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2002

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2002

## MITIGATION REQUEST SUMMARY

DATE: October 24, 2002

NAME: Joseph Orandello

ADDRESS: 14660 SW 17 Court, Davie

CASE: 96-181

### SUMMARY:

Date respondent cited:	March 14, 1996
Date of Final Order:	April 3, 1996
Non-Compliance Hearing(s):	May 28, 1996    July 2, 1996    July 30, 1996
	September 3, 1996    October 15, 1996
Fine/Lien(s) Imposed:	\$70,000.00
Town Attorney fees, court costs:	\$30,127.35

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Department Guidelines-recommended mitigation amount, including Town Attorney fees and court costs:	\$47,286.54
Amount the respondent desires to pay:	\$31,000.00
Date Respondent requested mitigation:	October 2, 2002

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The property owner was cited for the following violations of the Town of Davie Code:

- 1) Section 12-32: Violation of residential zoning/outdoor vehicle storage not a permitted use.
- 2) Section 12-32: Violation of residential zoning/parking facility for commercial vehicles not a permitted use.
- 3) Section 13-17: Conducting business at 14660 SW 17 Court without a Town of Davie license.

The mitigated amount will cover the Town expenses and the recommended mitigated amount of \$47,286.54 should be considered and approved by the Town Council and the respondent(s) given 45 days to pay the mitigated amount.

The mitigated amount recommended by the Respondent, Joseph Orandello, equal to \$31,000.00 may be considered by the Town Council but it is at their own discretion that such a recommendation shall be considered.

DANIEL J. STALLONE  
CODE COMPLIANCE OFFICIAL



## DEVELOPMENT SERVICES DEPARTMENT

Administration 954-797-1101

Planning & Zoning 954-797-1103

Building & Occupational Licensing 954-797-1111

Code Enforcement 954-797-1121

Engineering 954 797-1113

**TOWN OF DAVIE** 6591 ORANGE DRIVE, DAVIE, FLORIDA 33314-3399

Mr. Joseph Orandello  
d/b/a Broadway Joe's  
14660 SW 17 Court  
Davie, FL 33330

VIA HAND DELIVERY & CERTIFIED MAIL

Dear Mr. Orandello:

Pursuant to our meeting on October 15, 2002, I am submitting this letter as a review of what was discussed and considered with regard to the mitigation of your code compliance liens and legal costs in Code Compliance case No. 96-181.

The current total fines/legal fees/interest charges:

- 1) Final Judgment, 12-14-98, amount equals \$80,350.00, consisting of fines/liens equal to \$70,000.00, and legal fees and court costs (B. Webber law firm) equal to \$10,350.00;
- 2) Legal costs incurred post-Final Judgment (B. Webber law firm) equal to \$17,814.85;
- 3) Legal costs incurred post-Final Judgment, (M. Kiar law firm) equal to \$1962.50;
- 4) TOTAL amount fines/legal fees (w/o interest charged) equals \$100,127.35.

The potential to mitigate is based upon a respondent's compliance with all Town codes. As of this date, a recent inspection of your property at 14660 SW 17 Court indicates current adherence to the Town's codes. Therefore, the application of our mitigation guidelines to your outstanding fines/liens will provide the mitigation amount. Additionally, the Town legal costs shall be added to the mitigation amount to obtain a recommended total, which incorporates the mitigation amount and the Town's legal costs as a potential settlement amount.

Please provide the Town with a written response intended to be transmitted to the Town Administrator that will suffice to accept the settlement offer contained herein or to act as a counteroffer that provides specific rationale for consideration by the Town. Additionally, please note that the Town's ultimate acceptance or denial of any mitigation amount, settlement offer or counteroffer shall be subject to acceptance by the Town Council at their earliest possible meeting date. Therefore, it is suggested that a response should be provided by you at your earliest opportunity.

Sincerely,

Daniel J. Stallone, J.D.  
Code Compliance Official

cc: Thomas J. Willi, Town Administrator;  
Mark Kutney, AICP, Development Services Director;  
Monroe Kiar, Esq., Town Attorney.

**TOWN OF DAVIE CODE COMPLIANCE  
MITIGATION WORKSHEET  
CASE #96-181**

**Respondent(s):** Joseph Orandello

**Address:** 14660 SW 17 Court, Davie Florida 33330

**Fine/Lien Amount:** \$70,000.00

**Mitigation Recommendation:**  
**(as per approved mitigation guidelines)**

a) 17.5% of \$70,000.00 \$ 12,250.00

b) 6% of \$70,000.00  
(153 days of non-compliance;  
2% of lien/fine per each 60 day period) \$ 4,200.00

c) Mitigation Base Fee \$ 709.19  
(Town costs incurred by  
Code Compliance)

Mitigation Total \$ 17,159.19

Legal Fees and Court Costs  
Included in Final Judgment, 12-14-98,  
(B. Webber Law Firm) \$ 10,350.00

Legal Fees (Post Judgment,  
(B. Webber Law Firm) \$ 17,814.85

Legal Fees (Monroe Kiar) \$ 1,962.50

Legal Fees Total \$ 30,127.35

Total Mitigation Amount and Legal Fees \$47,286.54

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MITIGATION GUIDELINES 2002-2003

**FINE AMOUNT**

Fine to \$10,000.

\$10,001 - \$ 20,000.

\$20,001 - \$ 30,000.

\$30,001 - \$ 40,000.

\$40,001 - \$ 50,000.

\$50,001 - \$ 60,000.

\$60,001 - \$ 70,000.

\$70,001 - \$ 80,000.

\$80,001 - \$ 90,000.

\$90,001 - \$ 100,000.

over \$ 100,000.

**RECOMMENDATION**

2.5% of the amount plus an additional 2% for each sixty (60) days of violation plus actual costs incurred by the Town.

5.0% of the amount plus an additional 2% for each sixty (60) days of violation plus actual costs incurred by the Town.

7.5% of the amount plus an additional 2% for each sixty (60) days of violation plus actual costs incurred by the Town.

10.0% of the amount plus an additional 2% for each sixty (60) days of violation plus actual costs incurred by the Town.

12.5% of the amount plus an additional 2% for each sixty (60) days of violation plus actual costs incurred by the Town.

15.0% of the amount plus an additional 2% for each sixty (60) days of violation plus actual costs incurred by the Town.

17.5% of the amount plus an additional 2% for each sixty (60) days of violation plus actual costs incurred by the Town.

20.0% of the amount plus an additional 2% for each sixty (60) days of violation plus actual costs incurred by the Town.

22.5% of the amount plus an additional 2% for each sixty (60) days of violation plus actual costs incurred by the Town.

25.0% of the amount plus an additional 2% for each sixty (60) days of violation plus actual costs incurred by the Town.

30.0% of the amount plus an additional 2% for each sixty (60) days of violation plus actual costs incurred by the Town.

This schedule would be utilized for first time violators and repeat violators.

MITIGATION BASE FEE (COSTS OF CASE ADMINISTRATION AND DEVELOPMENT) SHALL BE ADDED TO THE TOTAL DERIVED FROM APPLICATION OF ABOVE GUIDELINES. THE MITIGATION BASE FEE IS BASED UPON THE EXPENSES INCURRED BY TOWN EMPLOYEES AND ALL ACCOMPANYING COSTS.

MITIGATION BASE FEE\*

\*subject to revision as per current staff salaries.

\$709.19

**Joseph Orandello**  
**14660 SW 17<sup>th</sup> Court**  
**Davie, Florida 33325**  
**(954) 240-1276**

October 23, 2002

Dear Mr. Willie,

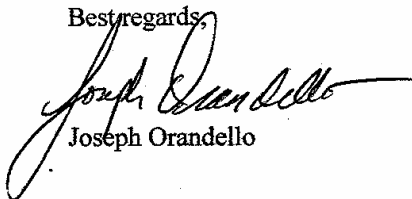
I am writing this letter to you for you to please show your town council. To begin with, I want to thank your office for sitting down with me to mitigate my code liens located at 14660 SW 17<sup>th</sup> Court. I wish I could pay what the mitigation total came out to, but unfortunately, I do not have that kind of money. I spoke to Mark Cutney and Danny Stalone and asked if I could pay only the attorney's fees, which was approximately \$30,000.00. I offered to pay \$31,000.00 providing I can sell my house, otherwise refinance it, if it needs to be paid sooner.

My home is all I have left. In 1998, I had a lengthy audit with the Internal Revenue Service that lasted seven years and left me broke. I lost my family in a divorce over the IRS audit and the struggle with the town of Davie. I am forty-six years old, legally disabled, and cannot work anymore. I want to sell my home and try to start over.

I would very much appreciate for the town council to accept my offer. This way, the town of Davie did not lose any money and I paid twice, my attorney fees and the towns'. I feel that that's enough punishment for one person to handle. Especially since I tried to mitigate this in 1996 and no one would contact me – only through court hearings and costs.

I would appreciate your assistance in this matter.

Best regards,



Joseph Orandello